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DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

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Hydroelectric Power Development at Silver Jack Dam, Bostwick Park Project, Colorado

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to accept proposals, select lessee, and contract for hydroelectric power development at Silver Jack Dam.

SUMMARY: Current Federal policy allows non-Federal development of electrical power resource potential on Federal water resource projects. The Bureau of Reclamation (Reclamation) will consider proposals for non-Federal development of hydroelectric power at Silver Jack Dam, a feature of the Bostwick Park Project, located in Colorado. Reclamation is considering such hydroelectric power development under a Lease of Power Privilege. No Federal funds will be available for such hydroelectric power development.

DATES: A written proposal and seven copies must be submitted on or before 4:00 p.m. (MDT) **[INSERT DATE 150 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. A proposal will be considered timely only if it is received in the office of the Area Manager on or before 4:00 p.m. on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

ADDRESSES: Send written proposals to Mr. Ed Warner, Area Manager, Western Colorado Area Office, Bureau of Reclamation, 445 West Gunnison Avenue, Suite 221, Grand Junction, Colorado 81501-5711, telephone (970) 248-0600.

FOR FURTHER INFORMATION CONTACT: Technical data, including past water release patterns, may be obtained by contacting Mr. Ryan Christianson, Water Management Group Chief, Western Colorado Area Office, Bureau of Reclamation, 445 West Gunnison Avenue, Suite 221, Grand Junction, Colorado 81501, telephone (970) 248-0652. Reclamation will be available to meet with interested entities only upon written request to the Water Management Group Chief at the above cited address. Reclamation will provide an opportunity for a site visit. In addition, Reclamation reserves the right to schedule a single meeting and/or visit to address the questions of all entities that have submitted questions or requested site visits. Information related to the operation and maintenance (O&M) of Silver Jack Dam may be obtained by contacting Mr. Allen Distel, Bostwick Park Water Conservancy District, 400 South 3rd Street, Montrose, Colorado 81402, telephone (970) 249-8707.

SUPPLEMENTARY INFORMATION: The Bostwick Park Project is a Federal Reclamation project. This Notice presents background information, proposal content guidelines, and information concerning selection of a non-Federal entity to develop hydroelectric power at Silver Jack Dam, and power purchasing and/or marketing considerations. Interested parties will not need to file an application with the Federal Energy Regulatory Commission. To be considered for selection, the applicant's proposed Lease of Power Privilege (LOPP) project must not impair the efficiency of Reclamation project power or water deliveries, impact the structural integrity of the

project, jeopardize public safety, or negatively affect any other Reclamation project purposes.

The Bostwick Park Project, located near the town of Montrose in west-central Colorado on the Cimarron River in the Colorado River Basin, was authorized for construction (including hydropower) by the Colorado River Basin Project Act of September 2, 1964 (Public Law 88-568), as a participating project under the Colorado River Storage Project Act of April 11, 1956 (Public Law 84-485). The Bostwick Park Water Conservancy District (District), under its contracts with the United States, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning Silver Jack Dam.

Reclamation is considering hydroelectric power development at Silver Jack Dam under a LOPP. A LOPP is an alternative to development under a license from the Federal Energy Regulatory Commission. A LOPP is a contractual right given to a non-Federal entity to use a Reclamation facility for electric power generation consistent with Reclamation project purposes. Leases of power privilege have terms not to exceed 40 years. The general authority for LOPP under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. Sec. 522), and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act).

Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any LOPP considered in response to this Notice. Reclamation will also lead necessary consultation with American Indian Tribal Governments and compliance with the National Historic Preservation Act (NHPA), Endangered Species Act (ESA), and other related environmental regulations for all

elements of the proposed project.

LOPPs may be issued only when Reclamation has determined that NEPA and any other regulatory compliance requirements are completed. Any LOPP at Silver Jack Dam must accommodate existing contractual and environmental commitments related to O&M of such existing facilities. The lessee (i.e., successful proposing entity) will be required to enter into a contract with Reclamation. This contract will (1) address requirements related to coordination of operations and maintenance with Bostwick Park Project stakeholders (including the District) and (2) stipulate that the LOPP lessee will be responsible for any increase in operations or maintenance costs that are attributable to the hydroelectric power development.

All costs incurred by the United States related to development and O&M under a LOPP, including NEPA and other environmental regulatory compliance, engineering reviews, and development of the LOPP, would be the expense of the lessee. In addition, the lessee would be required to make annual payments to the United States for the use of a Federal facility at a rate of 3 mills per kilowatt-hour of generation. If conditions provide opportunity for substantial benefits to accrue to the lessee, then the United States will benefit proportionally.

Under the LOPP, provisions will be included for the mill rate to increase each year commensurate with inflation based on the average of the previous 5 years of the Gross Domestic Product (GDP) Price Deflator. If the 5-year GDP Price Deflator average shows no change or deflation, the LOPP rate will remain the same as the previous year's rate. The rate of increase of the 5-year GDP Price Deflator average will be capped at 5 percent. Such annual payments to the United States would be deposited as a credit to the

Upper Colorado River Basin Fund, and are applied against the total outstanding reimbursable repayment obligation for reimbursable project construction costs of the Federal project, on which the LOPP is issued, pursuant to the existing construction cost allocation (not applied only against power construction costs).

Proposal Content Guidelines

Interested parties should submit proposals explaining in as precise detail as is practicable how the hydropower potential would be developed. Minimum factors by which a proposal will be scored and criteria evaluated include the following:

- (a) Anticipated contractual arrangements with the District for the Bostwick Park Project feature(s) that are proposed for utilization in the hydropower development under consideration. Define how the hydropower development would operate in harmony with the multiple purposes of the Bostwick Park Project and existing applicable contracts related to O&M of Bostwick Park Project feature(s) being considered for modification.
- (b) Information regarding whether the applicant qualifies as a preference entity. If the proposal is made by a group of entities or by a subdivision of an entity, then the application must explain whether and why the applicant or applicants qualify as preference entities. The term “preference entity,” as applied to a LOPP, means an entity qualifying for preference under Section 9c of the 1939 Act as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended.
- (c) Information relevant to the qualifications of the proposing entity to plan and implement such a project, including but not limited to: type of organization;

length of time in business; experience in funding, design, and construction of similar projects; industry rating(s) that indicate financial soundness and/or technical and managerial capability; experience of key management personnel; history of any reorganizations or mergers with other companies; and any other information that demonstrates the interested entity's organizational, technical, and financial ability to perform all aspects of the work. Proposals will include a discussion of past experience in developing, operating, and maintaining similar facilities and provide references as appropriate.

- (d) Geographical locations and descriptions of principal structures and other important features of the proposed development including roads and transmission lines. Proposals must estimate and describe installed capacity and the capacity of the power facilities under dry, average, and wet hydrological conditions. Proposals must also describe the daily, weekly, monthly, and annual pattern of expected generation under average, wet, and dry hydrological conditions; the ability of generation to provide ancillary services such as regulation, spinning reserves, and voltampere reactive support; and information on the reliability of the generation, potential maintenance outage schedule, and duration. If capacity and energy can be delivered to another location, either by the proposing entity or by potential third party transmission agents, the proposal must specify where that capacity and energy can be delivered. The proposal must describe the concepts and contractual arrangements (including the involved parties) related to transmission interconnection, power sales, and the proposed approach to third party transmission if required.

- (e) Existing title arrangements or a description of the ability to acquire title to or the

right to occupy and use lands necessary for the proposed LOPP project, including such additional lands as may be required during construction.

- (f) A description of studies necessary to adequately define impacts of the proposed LOPP project on the Bostwick Park Project, historic properties (if such are present), and the environment. The proposal must describe any significant environmental issues associated with the proposed LOPP project and the proposing entity's approach for gathering relevant data and resolving such issues to protect and enhance the quality of the environment. The proposal will explain any proposed use of the LOPP project for conservation and utilization of the available water resources in the public interest.
- (g) Plans for assuming liability for damage to the operational and structural integrity of the Bostwick Park Project caused by construction, operation, and/or maintenance of the hydropower development.
- (h) Identify the organizational structure planned for the long-term O&M of any proposed hydropower development.
- (i) A management plan, including schedules of these activities as applicable, to accomplish activities such as planning; NEPA compliance; NHPA compliance; ESA compliance; necessary studies; LOPP project development; design, construction, safety plan, and facility testing; and the start of hydropower production.
- (j) An estimate of development costs. These costs will include all investment costs such as the cost of studies to determine feasibility; NEPA compliance; NHPA compliance; ESA compliance; other statutory compliance; design; construction; financing as well as the amortized annual cost of the investment;

annual O&M expense for the hydropower development; lease payments to the United States; expenses associated with the Reclamation project; and anticipated return on investment. If there are additional transmission expenses associated with the development of the LOPP project, these expenses must also be included. The proposal must identify proposed methods of financing the LOPP project. The proposal must include an economic analysis that compares the present worth of all benefits and costs of the hydropower development.

Selection of Lessee

Reclamation will evaluate proposals received in response to this published Notice. Reclamation may request additional information from individual proposing entities and/or all proposing entities after proposals are submitted, but prior to making a selection of a lessee.

Reclamation will give more favorable consideration to proposals that (1) responsibly develop hydropower; (2) avoid, reduce, or minimize environmental impacts; (3) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term O&M; and (4) best share the economic benefits of the hydropower development among parties (including the United States) to the LOPP. A proposal will be deemed unacceptable if it is inconsistent with Bostwick Park Project purposes, as determined by Reclamation.

Reclamation will give preference to those entities that qualify as preference entities, as defined under Proposal Content Guidelines, item (b) of this Notice, provided that they are well qualified to develop and provide for long-term O&M of the

hydropower facility. If one applicant is a preference entity and the other is not, and the preference entity's proposed plans are not as well qualified as the non-preference entity's plans, Reclamation will inform the preference entity of the specific reasons why its plans are not as well qualified and afford up to 30 calendar days for the preference entity to render its plans at least as well qualified as the other plans. All other applicants will be informed of this action. If the plans of the preference entity are rendered at least as well qualified within the time allowed, Reclamation will favor the preference entity. If the preference entity's plans are not rendered at least as well qualified within the time allowed, Reclamation will favor the other applicant.

Notice and Time Period to Enter Into LOPP

Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee. The selected potential lessee will be provided a maximum of 24 months from the date of selection to sign the preliminary lease, complete the requirements set forth in the preliminary lease, and to sign the LOPP. The lessee will have a maximum of 1 year from the date of the execution of the LOPP to complete final designs, specifications, etc., and an additional 1 year to begin construction. A maximum of 4 years is allowed, from the date of the preliminary lease to the beginning of construction. Maximum timeframes for construction will be determined by the Upper Colorado Regional Director. The above timeframes will only be extended for just cause resulting from actions and/or circumstances that are beyond the control of Reclamation or the lessee. Just cause and timeframe adjustments will be determined solely by the Upper Colorado Regional Director.

Dated: October 24, 2018.

Brent Rhees,

Regional Director,

Upper Colorado Region.

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